

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

STACIE LONAKER, an individual; and
MYRIAM LONAKER, an individual,

Plaintiffs,

v.

JPMORGAN CHASE BANK, N.A., a
business entity; and DOES 1 through 50,
inclusive,

Defendants.

Case No. 5:14-cv-00152 HRL

**INTERIM ORDER RE PLAINTIFF'S
REQUEST FOR A CONTINUANCE**

Plaintiff requests permission to file a motion to compel discovery that was the subject of Discovery Dispute Joint Report No. 1, as well as an extension of time to brief defendant's pending summary judgment motion. The court already issued an order compelling the discovery in question (Dkt. 38), and plaintiff's instant request is more properly construed as a Fed. R. Civ. P. 56(d) request for a continuance. Having reviewed plaintiff's request, the court requires further information from the parties:

"A party requesting a continuance pursuant to Rule 56(f) [now 56(d)] must identify by affidavit the specific facts that further discovery would reveal, and explain why those facts would preclude summary judgment." Tatum v. City & Cnty. of San Francisco, 441 F.3d 1090, 1100 (9th Cir. 2006). Plaintiff's counsel has submitted a declaration stating only that the subject discovery is relevant to plaintiff's claims. Plaintiff has not identified specific facts that the discovery would

1 reveal or explained why that information would create a genuine issue of material fact with respect
2 to defendant's pending summary judgment motion.

3 At the same time, however, this court did issue an order compelling defendant to produce
4 supplemental discovery responses and documents by December 19, 2014; and, plaintiff is now
5 claiming that was not done. The record presented indicates that while some further information
6 was produced on December 17, defense counsel also advised that he was waiting for additional
7 documents and would produce them once they were received. Plaintiff says documents responsive
8 to Request Nos. 19 and 24-28 have not been produced.

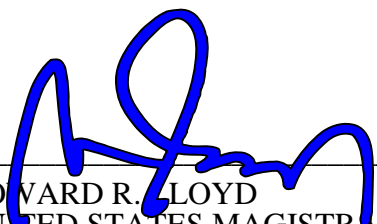
9 **No later than noon on January 9, 2015**, the parties shall submit the following:

10 Plaintiff shall file declaration(s) from appropriate person(s) identifying the specific facts
11 that this further discovery would reveal and explaining why those facts would preclude summary
12 judgment.

13 Defendant shall file declaration(s) from appropriate person(s) (1) identifying what
14 discovery (if any) remains to be produced; (2) identifying the date when that discovery will be
15 produced (assuming it has not already been provided); and (3) explaining why the discovery
16 apparently was not produced by December 19 (as defendant agreed to do and as subsequently
17 ordered by the court).

18 **SO ORDERED.**

19 Dated: January 7, 2015

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23 **HOWARD R. LOYD**
24 **UNITED STATES MAGISTRATE JUDGE**
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5:14-cv-00152-HRL Notice has been electronically mailed to:

David A. Owens owensd2@bryancave.com, melissa.honkanen@bryancave.com

Eunji Cho mellenlaw@yahoo.com

Jessica Ryan Galletta mellenlaw@yahoo.com

Matthew David Mellen mellenlaw@yahoo.com

Tina Laxmi Naicker naickert@bryancave.com, andersone@bryancave.com

United States District Court
Northern District of California